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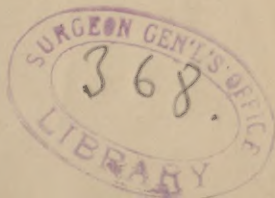
SHOULD INEBRIATES BE PUNISHED BY DEATH FOR CRIME?*

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It is a common error to suppose that law and its practice, and the facts and theories of science generally accepted to-day, are final and fixed truths. The fact is not often recognized that theories, creeds and laws, and their application to the events of life, are only human conceptions of truth. Hence the demand for change and readjustment of the relations of life to conform to the new truths and new facts constantly appearing. Whenever human conduct, thought, and law fails to adapt itself to these new conceptions of life, great injury and loss follow.

The treatment of insanity, medically and legally, has totally changed from the last century. A better knowledge of such cases has demanded an adjustment of theory and practice to conform to the new views. The armies of the lawless and defective are no longer concealed by the fogs of superstition. Their origin and march are growing more and more distinct with every advance of the age. The hosts of the insane have been outlined and traced; the idiot has appeared as a growth from distinct causes; the epileptic has emerged from the theory of being possessed with an evil spirit; criminals are found who are not deceitful and desperately wicked, but the direct products of conditions of life and living; the inebriate, who for ages has been the subject of ridicule and punishment,

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comes into view as defective and diseased. Thus from the front lines of advance come new facts, new views, requiring new laws, new adjustments of the theory and practice of yesterday to meet the clearer, wider knowledge of to-day. The farmer must put aside the old implements of his fathers; the merchant must use the telegraph and telephone because correspondence is too slow; the practice of the courts, the theory and treatment of diseases, the teaching from the pulpit, are all changing. The spirit of the age questions and demands reasons for the theories and practices of to-day. It inquires if our methods and theories are destructive or obstructive in the race march from the lower to the higher. My purpose is to show that the death penalty, as a means of punishment for inebriates, is opposed by all teachings of science and experience, and should be superseded by other means based on a more accurate knowledge.

An outline view of the present legal methods of dealing with inebriates who commit petty crime will make clear both the destruction and obstruction which follow from the failure to comprehend and utilize the facts which science and experience teach.

Of the estimated half million inebriates in this country, ten per cent. are yearly convicted of crime of all degrees. Of this number, two per cent. commit capital crime, and one per cent. of this number, or about one hundred persons, are executed every year. These statistics are only approximate estimates, but they illustrate in a general way the extent of inebriety, and how far the courts are called to restrain and check it. A study of the local statistics shows that in every town and city of this country a large part of the business of courts of justice is the legal punishment of inebriates. The inmates of jails and prisons who are inebriates are variously estimated from fifty to eighty per cent. of the whole number. Year after year the courts administer the same treatment of fine and imprisonment for both inebriety and crime and yet the number of inebriates is increasing. When this fact is studied, it appears that a species of fatality seems to follow the first legal pun-

ishment of inebriates, seen in a repetition of the same offense and the same punishment with an ever increasing frequency. In the courts these are called "repeaters," and the number of sentences of the same man for the same crime in some cases extends into the hundreds. In one thousand cases confined to Blackwell's Island, nine hundred and thirty-five had been sentenced for the same offence from one to twenty-eight times before. This fatality seems to start with the first sentence and punishment; and the victim is precipitated lower and lower, becoming more degenerated and incapacitated, until finally death follows in prison, the insane asylum or almshouse.

The natural history of such cases is continuous punishment for inebriety, assault, theft, burglary, and petty crime, and finally murder. Each period of punishment is followed by the same or more aggravated crime. The intent and purpose of the law is defeated, and this means of treatment both directly and indirectly increases crime and prepares the inebriate for worse and more hopeless states. The courts and prison officials are powerless, public opinion sustains the law and demands its execution irrespective of all consequences. The poor victims punished to-day reappear to-morrow, under arrest for the same or a worse crime. The severity of the punishment makes no difference. The inebriate who, under the influence of alcohol, commits assault to-day, will do so to-morrow, and next year, and so on, as long as his inebriety continues. No legal punishment of fines and imprisonment can stop him. These facts are sustained by the experience of all court and prison officials. They are also equally true in the death punishment of inebriates for crime.

When the crime is the direct or indirect result of inebriety, it is only the natural outcome or logical result of conditions of brain disorder and surroundings. The assumption that inebriety is always a voluntary condition within the control of the person, is a most fatal error. On this error is based the death penalty. Its practical failure is apparent in the increase of capital crime by inebriates. The inebriate who has been

arrested for petty crime while intoxicated many times before, finally commits murder in the same condition, and is executed. His friends and companions do the same thing and suffer the same penalty. Thus one brutal murder committed in a state of intoxication is followed by another equally brutal, and the execution of the murderer makes no diminution in the number of similar crimes that follow. In every daily paper appear records of the same murders by inebriates under the same circumstances. A wave of public vengeance may dispose of the criminal by lynch law, or only be satisfied when he is hung, but the same murders are committed again by the same class of men. This is only the repetition of the same blunder of fining and imprisoning inebriates for inebriety and petty crime. In both cases the victims are destroyed and similar offences are increased rather than diminished. In one case imprisonment and fines make the inebriate more incurable and less capable of change of life and living; in the other, the execution of the inebriate leaves a brutalizing, combative influence and a form of contagious glamour that defective brains are powerless to resist. These are the facts which experience and observation fully confirm, and which the latest teachings of science explain and point out.

To-day it is shown that the action of alcohol on the brain and nervous system is anæsthetic and paralyzant. The use of alcohol to excess at intervals or continuously always numbs and paralyzes the higher operations of the brain; the overstimulated heart reacts and depression and feebleness follow. All the senses are disturbed and become more or less incapable of transmitting the impressions which are received. The brain is incapable of accurately comprehending the nature of acts and the relation of surroundings when under the influence of alcohol. The palsy which follows from this drug masks all brain action. Delusions of vigor and strength appear; events and their consequences and motive and conduct are all exaggerated, misconceived, misinterpreted, and the brain is unable to correct them. The pronounced delusions, illusions, delirium, mania, imbecility, and stupor seen in states of in-

toxication are only the advanced stages of brain conditions which begin with the first glass of spirits. The early changed conduct and speech of men who use spirits are the first symptoms of the paralyzing action of alcohol. More spirits are followed by more paralysis, and finally all judgment and experience and all distinctions of right and wrong, of duty and obligation, are confused and unreal. The supposed brilliancy which follows from the use of spirits is unreal and transient,—it is the glamour of the mind which has lost its balance and is unable to correct itself. No other drugs are known whose paralyzing effects on the higher brain centers are so positive and insidious. The inebriate and moderate drinker have always impaired nerve force and brain power. The automatic nature of their life and brain work may cover up this fact; but change the surroundings and demands on the brain, and its incapacity appears. Every toxic state from alcohol more or less permanently impresses and debilitates brain integrity.

The fear of the law and consequences of acts make little impression in such cases. The brain is anæsthetized and crippled, and cannot realize events and their nature and consequences. The crime committed by an inebriate cannot be the act of a healthy brain. The more pronounced his inebriety and the longer its duration, the more positive the disease and incompetency to reason and control his acts. The effort to fix a point in all disputed cases where sanity and responsibility joins insanity and irresponsibility is an impossibility which every advance of science demonstrates. It is equally impossible to use alcohol to excess for years and have a sound, normal brain. It is impossible in such a case to fully realize the nature and consequence of acts and obligations. It is a legal fiction to suppose that a crime committed while under the influence of alcohol was the voluntary act of a sane man. It is a legal fiction to suppose that a sane man would plan a crime, then become intoxicated for the purpose of executing it. It is a legal fiction to suppose that premeditation in crime committed by inebriates is evidence of sanity

and consciousness of his acts. These are some of the facts of science which bring additional evidence of the error of capital punishment in such cases.

A study of the crime committed by inebriates amply confirms the facts of brain incapacity and disease. Thus in cases of capital crime by inebriates, delusions, illusions, morbid impulses, and epileptic explosions are common symptoms. In many cases capital crime is the result of peculiar circumstances and sudden strains on the enfeebled brain, or the possession of a morbid impulse, a delusion or illusion that suddenly dominates the mind; also epileptic explosions, that are real attacks of maniacal fury and unreasoning. Alcoholic somnambulism or trance is present in many cases. The mind in these cases is oblivious to all outside influences or considerations, and is subject to every passing impulse that may come from either external or internal causes. At the time no general indication of unconsciousness may be present, yet a certain automatic line of conduct and history of crime give clear hints of brain enfeeblement. All crime by inebriates will be found associated with concealed or open delusions, morbid and epileptic impulses, and sense deceptions. In all these cases the brain is unsound and cannot act rationally and clearly. There are present in these cases either insanity of inebriety, or the inebriety of insanity. The inebriety of the prisoner has merged into insanity, or some concealed insanity or brain degeneration has developed into inebriety or dipsomania. The death penalty to such cases has no horrors. It is rather welcomed. The struggle for life is the attractive publicity that makes a hero of the man, and the mystery of the end of life intensifies the interest to the last moment.

A summary of the facts we have outlined would sustain the following statements:—

1. The legal treatment of insanity has changed in obedience to a more accurate knowledge of the brain and its diseases.
2. The legal treatment of inebriety is unchanged to-day. Although it occupies two-thirds of the time of courts, all

teachings of science and a larger knowledge of the inebriate and his malady are ignored.

3. The ruinous error of punishment by fines and imprisonment of inebriety, and petty crimes associated with it, which notoriously increases and perpetuates the inebriate and criminal, is a fact demonstrable in every community.

4. Thus public opinion, through mediæval theories and laws are training and preparing a class of inebriates who first commit petty, then capital crime, with a certainty which can almost be predicted.

5. The death penalty for such crime utterly fails for the same reason. The execution of any number of this class simply opens the door for an army already prepared and trained to take their places.

6. From a scientific study of these cases, it is clearly apparent that they are diseased and incapacitated to act sanely. Alcohol has palsied the brain and made them madmen. The very fact of continuous use of alcohol is evidence of mental impairment and unreasoning act and thought.

7. To hold such men accountable for their acts, and by punishment expect to deter them from further crime, and by such punishment check others from similar crime, is an error which both scientific teaching and experience point out.

8. The object of the State, through the law, is to protect society and the individual; but if the execution of the law-breaker fails to accomplish this end, the laws are wrong.

9. The unfounded fear that the plea of insanity in crime, and the failure to punish, is an encouragement for further crime, is flatly contradicted by statistics.

10. Among the mentally defective, the insane and inebriates, the death penalty is followed by an increase rather than a diminution of crime.

11. The inebriate should never be hung for crime committed while under the influence of alcohol.

12. This method of punishment is never deterrent, but furnishes an attraction for other inebriates who commit similar crime in the same way, following some law of mental contagion.

13. The inebriate murderer should be confined the rest of his life in a military work-house hospital. He should be under the care of others, as incapacitated to enjoy liberty and incompetent to direct his thoughts or acts.

14. A change of public sentiment and law is demanded, and a readjustment of theory and practice called for. The criminal inebriate occupies a very large space among the armies of the defective who threaten society to-day, and his care and treatment must be based on accurate knowledge, not theory.

15. Inebriate murderers should never be placed on public trial, where the details of the crime are made prominent or the farcical questions of sanity are publicly tested. They should be made the subject of private inquiry, and placed quietly in a work-house hospital, buried away from all knowledge or observation of the world.

16. The contagion of the crime and punishment would be avoided, and his services might repair some of the losses to society and the world.